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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/553,452	04/19/2000	Earl D. Koch	P3094	3887

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EXAMINER

MARKOVICH, KRISTINE M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 12/19/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/553,452

Applicant(s)

Koch

Examiner
Kristine Markovich

Art Unit
3671



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Oct 30, 2001

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 2-24 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 2-24 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

20) ☐ Other: _____

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Response to Amendment

Claim Rejections - 35 U.S.C. § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 24, line 2, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 24, line 4 does not provide proper antecedent basis for the limitation "said man hole cover support".

Claim Rejections - 35 U.S.C. § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 24, 2-7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaftner (US Patent 5,308,188) in view of Rech (US Patent 4,373,306).

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Shaftner discloses a temporary ramp for use on roadways having an elevated obstruction (figure 1), specifically a man hole. The ramp has a lower surface contacting the roadway and an upper inclined surface (figure 2). The ramp is made of an elastomeric material (column 2, lines 2-3 and column 3, lines 54-63).

Shaftner discloses the claimed device except for providing segments with male/female mating shapes. Rech discloses that it is known in the art to provide the device in segments having mating shapes (figure 1; column 2, lines 17-27) in order to make the device portable for temporary use in the desired form needed at the time of construction. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the ramp of Shaftner with the sections of Rech, in order to make the device portable for temporary use in the desired form needed at the time of construction.

5. Claims 8, 11, and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaftner in view of Rech as applied to claim 24 above, and further in view of McGinnis.

The combination of paragraph 4 above discloses the claimed device except for a metal core, in the form of a fastener. McGinnis discloses that it is known in the art to provide a metal core in the form of a fastener (24, figure 4) in order to anchor the device and keep it from moving out of place once set. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the combination of paragraph 4 above with the metal core/fastener of McGinnis, in order to anchor the device and keep it from moving out of place once set.

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6. Claims 12, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaftner in view of Rech as applied to claims 24, 5, and 7 above, and further in view of Poe.

The combination of paragraph 4 above discloses the claimed device except for a hinge mechanism. Poe discloses that it is known in the art to provide a hinge mechanism (15, figure 2) to allow a ramp to be portable. It has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the combination of paragraph 10 above with the hinge mechanism of Poe, in order to make the ramp a portable device.

7. Claims 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaftner in view of Herman et al. and Poe as applied to claim 12 above, and further in view of McGinnis.

The combination of paragraph 6 above discloses the claimed device except for a fastener. McGinnis discloses that it is known in the art to provide a fastener (24, figure 4) in order to anchor the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the ramp of the combination of paragraph 6 above with the fastener of McGinnis, in order to anchor the device.

8. Claims 20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaftner in view of Rech and McGinnis as applied to claims 16 and 17 above, and further in view of Poe.

The combination of paragraph 5 above discloses the claimed device except for a hinge mechanism. Poe discloses that it is known in the art to provide a hinge mechanism (15, figure 2)

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to allow a ramp to be portable. It has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the ramp of the combination of paragraph 11 above with the hinge mechanism of Poe, in order to make the ramp a portable device.

Response to Arguments

9. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristine M. Markovich whose telephone number is (703) 305-1676. The examiner can normally be reached on Mon-Fri from 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703)305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600



KMM

December 17, 2001